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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Solicitation of Public Comment for Project-Specific Build America, Buy America Nonavailability Waiver Proposal

SUBJECT: Under Evaluation: Project-Specific Nonavailability Waiver of Build America Buy America Act (BABA) Requirements to the Green Park Affordable Housing Rehabilitation Project for Plumbing Equipment (HUD Waiver #W-0000048)

Introduction

This solicitation of public comment by the U.S. Department of Housing and Urban Development (HUD) is to evaluate a BABA waiver request submitted by an assistance recipient based on nonavailability of multiple products for a single project.

This solicitation of public comment does not represent a final agency decision. The purpose of this proposal is to inquire whether potential alternative domestic products may be available that were not identified by the assistance recipient or through HUD's domestic product research efforts, and whether other factors should be considered in the evaluation of a waiver.

HUD has completed its market research efforts and was unable to identify alternative domestic products meeting the technical specifications of the project, in sufficient and reasonably available quantities and of a satisfactory quality. Through this public comment period, commenters may provide information that indicates a waiver may not be needed. For example, if a specified item is found to be domestically available, HUD would not issue a final waiver.

Solicitation of Public Comment

The proposed waiver will be posted on HUD's public facing webpage and a notice of the proposed waiver will also be posted to the Made in America website, to satisfy the requirement to publish any BABA project waiver and provide the public with fifteen (15) days to submit comments. HUD is seeking public and industry comments from all interested parties and encouraging current manufacturers of the subject products to submit comments regarding potential availability. Public comments on this waiver should be submitted to BuildAmericaBuyAmerica@hud.gov. Please reference HUD Waiver #W-0000048 in the subject line.

Background

The Buy America Preference set forth in section 70914 of BABA included in the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. No. 117-58), requires that all iron, steel, manufactured products, and construction materials used for infrastructure projects under Federal financial assistance awards be produced in the United States.

Under section 70914(b), HUD may waive the application of the Buy America Preference (BAP), in any case in which it finds that: applying the domestic content procurement preference would be

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inconsistent with the public interest; types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or the inclusion of iron, steel, manufactured products, or construction materials produced in the United States would increase the cost of the overall project by more than twenty-five (25) percent. All waivers must have a written explanation for the proposed determination; provide a period of not less than fifteen (15) days for public comment on the waiver; and be submitted to the Office of Management and Budget's (OMB) Made in America Office for review to determine if the waiver is consistent with policy.

Summary

Proposed Waiver: HUD is soliciting comments regarding whether to issue a project waiver of the requirements of section 70914 of BABA included in the IIJA, for plumbing equipment in an infrastructure project funded through the Housing Trust Fund (HTF).

Waiver Type: Nonavailability of domestic products in sufficient and reasonably available quantities or of a satisfactory quality.

Waiver Level and Scope: Project-level waiver for multiple products for a single project. No other project will utilize the waiver.

Proposed Waiver Description: Project-specific nonavailability waiver of BABA requirements to the Green Park affordable housing rehabilitation project in Junction City, Kansas for plumbing equipment.

Project Summary: The project is in Junction City, Kansas. The project consists of the rehabilitation of 100 affordable housing units.

Length of the Waiver: From the effective date of the final waiver until December 31, 2026.

Items Covered in Waiver: The Kansas Housing Resources Corporation is seeking a waiver for plumbing equipment, as described in detail below:

- Category: Manufactured Product
- Cost: \$55,266
- Quantity:
 - 5 ADA Shower with Grab Bars
 - 22 Copper Rough in Tub Valve Pressure
 - 22 Chrome Shower Trim Kit
 - 11 Tub Only Right Hand Drain
 - 11 Tub Only Left Hand Drain
 - 102 19" Round Drop in Lavatory 4" Sink
 - 102 Single Handle Lavatory Faucet Chrome
 - 22 Bath Waste Lift and Turn PVC Rough In Kit
 - 22 Chrome Lift and Turn Trim Kit
 - 102 Single Handle Kitchen Faucet with 28" Supply Lines
 - 5 6-Function ADA Handheld Shower with 24" Stainless Steel Grab Bar

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- 5 18” Grab Bar Stainless Steel
- 204 1-1/2” PVC Tubular P-Trap with 1-1/2 x 1-1/4 Reducing Washer
- 102 Toilet Paper Holder Chrome
- 102 24” Towel Bar Chrome
- 22 Double Robe Hook Chrome
- 22 Shower Rod Flange Only
- 22 Tub/Shower Backwall Direct to Stud
- 22 Tub/Shower Sidewalls Direct to Stud White
- PSC: 4510 – Plumbing Fixtures and Accessories
- NAICS: 238220 – Plumbing, Heating, and Air Conditioning Contractors
- Country of Origin: China
- Technical Specifications: Suitable for a 100-unit multifamily residential building.

Description of Efforts Made to Avoid the Need for a Waiver

Both the grantee and HUD made every effort to obtain domestically produced smart deadbolts and passage levers.

The grantee completed market research in June 2025 which consisted of outreach to three (3) manufacturers or suppliers of plumbing equipment. None of the manufacturers or suppliers were able to provide BABA-compliant products that met the technical specifications of the project.

HUD conducted an online search of manufacturers and suppliers and could not locate a BABA compliant supplier for most of the products initially requested in this waiver. However, HUD’s market research did identify BABA-compliant alternatives for 5 products included in an earlier draft of this waiver, thus narrowing the waiver scope. The grantee agreed to use those alternate products.

Anticipated Impact if No Waiver is Issued

Since no domestically-available alternatives for these products are available, a waiver is absolutely necessary for the project to move forward. The entirety of the plans for renovation of kitchens and bathrooms including faucets, kitchen/bathroom sinks, shower enclosures, toilets, and all associated hardware would be put on hold and existing conditions would remain in place. Without a waiver, it will also be impossible for the owner to fulfill its obligation to convert certain units to compliance with applicable accessibility standards since grab bars, and other ADA accessible hardware is included in this list. This would also constitute a change to the plans, specifications, and construction scope which have already been thoroughly reviewed and approved by HUD in conjunction with the 221(d)(4) first mortgage.

HUD additionally believes this waiver is justified because most items used in this project will be compliant with BABA. This waiver is for items whose total value is less than 1 percent of the total infrastructure expenditure for this project. Approval of this waiver will ensure that the remainder of materials costs support BABA-compliant manufacturers, consistent with the intent of BABA.

Assessment of Cost Advantage of a Foreign-Sourced Product Under OMB M-24-02, agencies are expected to assess "whether a significant portion of any cost advantage of a foreign-sourced

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product is the result of the use of dumped steel, iron, or manufactured products or the use of injuriously subsidized steel, iron, or manufactured products" as appropriate before granting a public interest waiver. HUD has concluded that this assessment is not applicable to this waiver as this waiver is not based on the cost of foreign-sourced products.

Description of Award

Agency: United States Department of Housing and Urban Development (HUD)

Common Governmentwide Accounting Classification (CGAC) Code: 086

Title of Project: Green Park Affordable Housing Rehabilitation Project

Recipient Name: Kansas Housing Resources Corporation

Unique Entity Identifier (UEI): S249YBY1KLE8

Federal Award Identification Number (FAIN): F-24-SG-20-0100

Financial Assistance Listing Name: Housing Trust Fund (HTF)

Assistance Listing Number: 14.275

Federal Financial Assistance Funding Amount: \$950,000.00

Total Estimated Infrastructure Expenditures: \$17,458,357.00